

UNITED STATES OF AMERICA,) Case No. 17-mj-00081-JTM-01
)
Plaintiff,) Kansas City, Missouri
) May 5, 2017
v.)
)
ISSE AWEIS MOHAMUD,)
)
Defendant.)
)

APPEARANCES:

For the Plaintiff: Mr. David Raskin
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1 (Court in Session at 3:38 p.m.)

2 THE COURT: All right. Good afternoon. We're here on
3 Case No. 17-mj81-JTM. If counsel would state their appearance
4 for the record.

5 MR. RASKIN: David Raskin for the Government. Good
6 afternoon, Your Honor.

7 THE COURT: Good afternoon.

8 MS. ALLEN: Carie Allen for Isse Mohamud who appears in
9 person.

10 THE COURT: All right. We're here today for the initial
11 appearance. And then to the extent -- we've had some e-mail
12 communications back and forth -- the parties are ready we will
13 get started on the Government's Motion for Detention. Let me
14 first just review with the defendant the Complaint that alleges
15 as follows: "I, the undersigned complainant, state the following
16 is true and correct to the best of my knowledge and belief. From
17 on or about January 27, 2017, up to and including May 4, 2017, in
18 the Western District of Missouri and elsewhere, Isse Mohamud, the
19 defendant, did willfully and knowingly make a false statement in
20 an application for passport with intent to induce and secure the
21 issuance of a passport under the authority of the United States
22 for his own use, contrary to the laws regulating the issuance of
23 passports and the rules prescribed pursuant to such laws, and did
24 willfully and knowingly use a passport, the issue of which was
25 secured in any way by reason of a false statement in violation of

1 18 United States Code Section 1542." The facts in support of
2 that Criminal Complaint are then contained in an affidavit that
3 is three pages long and attached. Ms. Allen, it's not my intent
4 to read that affidavit to the defendant, but he has a copy and
5 can review it at his convenience if that's satisfactory.

6 MS. ALLEN: Yes, it is, Your Honor.

7 THE COURT: The penalty that this charge carries is not
8 more than ten years in prison, not more than a \$250,000 fine, not
9 more than three years supervised release and a \$100 mandatory
10 special assessment. You have the right to remain silent. But if
11 you make a statement, plan it would be used against you. You
12 have the right to hire a lawyer that you choose and pay for. But
13 at your request I can appoint a lawyer to represent you free of
14 charge. It was our understanding you were seeking court-
15 appointed counsel, so I asked Ms. Allen to be present today. But
16 on the record I do need to ask if you wish court-appointed
17 counsel.

18 (Off Record Talking)

19 MR. MOHAMUD: Yeah.

20 THE COURT: All right. Then it will be up to Ms. Allen
21 to file a financial affidavit showing that you qualify for court-
22 appointed counsel. The Government is seeking your detention
23 pending trial. And for a variety of reasons, which we can
24 discuss on the record if we need to, the Court went ahead because
25 Pretrial was able to get out a report today and we set the

1 detention hearing. Are the parties ready to proceed with that
2 hearing?

3 MR. RASKIN: Of course we're ready to proceed. Yet, as
4 Your Honor knows, we filed a Motion for Continuance expecting
5 several days to continue what is an ongoing investigation before
6 presenting evidence on the issue of detention. I can elaborate
7 on why the Government filed that motion and why we continue to
8 think it is important to have that extra time before the
9 detention issue if Your Honor would like to hear that now.

10 THE COURT: Yes, please.

11 MR. RASKIN: So, the charge in the Complaint is a very
12 straightforward one, and as Your Honor knows, is not on its face
13 the type of charge that merits pretrial detention. But there is
14 much more to this story than the Complaint would indicate on its
15 face. And I'll address that now and it'll be addressed at the
16 hearing by Special Agent Buono who is with me at this table. The
17 defendant -- well, the defendant came to the FBI's attention
18 around April of this year, April 25th of this year, just a couple
19 weeks ago. He came to the FBI's attention because his family
20 reported him missing. He's a resident of the Kansas City area.
21 An investigation began because the family was concerned that he
22 may have gone overseas to engage in jihadist activities. I'm
23 summarizing there, of course. But that was the sentiment that
24 the family expressed. The FBI and its Joint Terrorism Task Force
25 got involved and it was quickly determined that the defendant

1 had, the day before, on April 24th left the United States on a
2 flight from Kansas City to Alexandria, Egypt. The FBI
3 investigated first by talking to his employer and learned from
4 his employer, an employee at Walmart, that the defendant had
5 actually left for the airport in the middle of his shift at
6 Walmart on the day of the 24th. FBI talked to a taxi driver who
7 drove him to the airport who expressed concern that the defendant
8 said he was leaving for three months. He had only had a small
9 backpack with him. The FBI talked to family members subsequently
10 who reiterated their concern about what the defendant was doing
11 overseas. The brother also mentioned that in the past several
12 months the defendant had cordoned off the garage of the house for
13 his own use, installing a lock on the door and that the brother
14 was concerned about what the defendant was doing alone in the
15 garage because he could hear the defendant having conversations
16 with people and didn't necessarily know the substance of those
17 conversations or who the people were who he was conversing with.
18 But the conversations themselves and the circumstances of the
19 privacy surrounding those conversations gave him concern. The
20 brother also told the FBI that the defendant had wiped clean some
21 electronic devices that had access to social media, or I believe
22 it may have been a laptop, which was cause for further concern
23 for the FBI. The FBI did some investigation of his travel and
24 learned that several flights to Egypt had been booked and not
25 taken before the one the defendant eventually took. There was

1 also a flight to Canada, as Your Honor knows, it's referenced in
2 the affidavit to the Complaint that it was booked and not taken.

3 THE COURT: Well, I don't mean to stop you, Mr. Raskin,
4 and I'll certainly let you proceed. But it seems to me these are
5 the kinds of facts that you could present today at the hearing as
6 opposed to presenting those same facts as a basis for getting a
7 continuance.

8 MR. RASKIN: Sure. Your Honor, I mean, there are -- I
9 can go on. But the point here is that there are serious
10 questions about what in God's name this defendant was doing
11 leaving his family without notice and his job without notice in
12 the middle of day and flying Egypt. That raises serious concerns
13 for the FBI. And those concerns go directly to the question of
14 bail. They go to danger to the community and they go to risk of
15 flight.

16 THE COURT: Okay.

17 MR. RASKIN: And the reason we asked for a continuance,
18 Your Honor, is because the FBI currently does not have the
19 answers to those questions, not necessarily bearing on passport
20 fraud, but bearing on the issue of whether this defendant can be
21 released without causing a risk of danger to the community or a
22 risk of not returning to court. That's why we asked for the
23 continuance and that's why we need it because we're still doing
24 work to figure out what is going on here.

25 THE COURT: Well, as I indicated in the e-mail that I

1 sent to both counsel -- and in just a moment I'll let Ms. Allen
2 speak as well -- you may have significant concerns as to what the
3 defendant was doing overseas. The Court has significant concerns
4 as to whether the affidavit itself established probable cause for
5 the charge in question. And what I did, because this is Judge
6 Maughmer's case, is I went ahead, you know, based on the
7 arguments that you presented, and signed the Criminal Complaint.
8 But because of the Court's concern, and I've certainly done this
9 in the past when I have had other similar cases where I'm
10 concerned about the legal basis for the charge, I hold the
11 detention hearing immediately. While I understand the Complaint
12 itself tracks the language of the statute, in the affidavit in
13 support of the Complaint, if you look at Paragraph 8, based on
14 the facts submitted above, the agent says, "I submit there is
15 probable cause to believe that Mohamud's statement in the
16 application regarding his intention to travel to Canada was
17 intentionally false. I, therefore, believe that probable cause
18 exists for the issuance of a Criminal Complaint charging him with
19 passport fraud in violation of 18 U.S.C. Section 1542." What the
20 Court views is lacking there is a statement that this false
21 statement was made with the intent to induce the issuance of the
22 passport as opposed to having been made for some other reason.
23 And if you look at the cases under this passport statute,
24 generally, the fraud involved -- it involves -- it can involve
25 many things, but the birth certificate itself, a Social Security

1 number, or something that if it had been presented would have
2 meant that the passport did not issue. So, the Court is
3 concerned when you look at the jury instructions that are
4 required on §1542 cases that have gone to trial with what I view
5 as a concern over the intent to induce the issuance of the
6 passport. And as you articulate your concern about the serious
7 questions as to what the defendant was doing, it's not the
8 Court's role to detain someone so that you can continue to
9 investigate some other crime that you think may have been
10 committed. And when you talk about the fact that there are
11 serious issues of danger to the community, unfortunately, under
12 the statute that you have chosen to charge this defendant, the
13 issue is is he a risk of flight. This is not one of the ones
14 under §3142, I believe it's (f)(1), where it's a crime of
15 violence or any of those other things that allows you to raise
16 issues of a danger or flight risk. So, the Court's concern -- I
17 certainly understand your concern, but I don't believe the Court
18 can be used as a holding ground while you further investigate
19 other crimes that may allow you to make other motions under the
20 detention statute. And that's why I set this this afternoon and
21 thought we should go forward. And if there is some piece of
22 evidence that you do not have and cannot present this afternoon,
23 then I'm happy to consider whether we should continue it over
24 until Monday. Ms. Allen, I know you've been asked to appear on
25 short notice. Do you want to weigh in on these issues?

1 MS. ALLEN: Judge, simply that we would be ready to
2 proceed with the detention hearing today. And that would
3 obviously be our preference based on the fact that he is being
4 held and would be held over the weekend until Monday if we
5 prolonged this.

6 THE COURT: All right. So, I suggest we get started.
7 And then if there's something that you think is of great
8 significance that we cannot -- do not have evidence for this
9 afternoon, then I'm happy to consider whether the matter should
10 be continued.

11 MR. RASKIN: Well, just to complete the record and we'll
12 go forward with the hearing, you know, we're in a bind because
13 we're continuing an investigation. Not necessarily about new
14 crimes, but just about what this defendant was up to as it
15 relates directly to the safety of the community while he is on
16 release. Whether that is a factor or not it means nothing to the
17 FBI. They have a responsibility to keep the community safe. And
18 so they are going to be investigating that. And it's very hard
19 for us to give Your Honor the specifics of what exactly the FBI
20 is looking at now without compromising that investigation. So,
21 you've put us in a very, very difficult position going forward
22 before we're ready to present the most compelling case for
23 detention here in a case that, frankly, is quite important to us.

24 THE COURT: Well, I understand the importance of the
25 case. I mean, you could have held up filing these charges. I

1 mean, you were the one that chose to go forward today. It's my
2 understanding defendant has been detained for some time. I think
3 Pretrial indicated he's been in custody of someone for over ten
4 days, so --

5 MR. RASKIN: That's incorrect.

6 THE COURT: All right. Well, that's the information I
7 have from Pretrial. And in any event, you know, you were the
8 ones that wanted to go forward today. And so, with the filing of
9 the Complaint, I went ahead and issued it, although I had real
10 concerns given what's set forth in the affidavit. So, what I'd
11 like to do is at least get started on the detention hearing. If
12 we then think that we can't conclude it today, we'll make that
13 decision, you know, as we go along.

14 MR. RASKIN: That's fine, Your Honor. We're ready.

15 THE COURT: All right. Do you have information or
16 witnesses or stipulations as to the Pretrial Report that you'd
17 like to present to the Court?

18 MR. RASKIN: Yes. Just I'll start with the Pretrial
19 Services Report because ultimately I'm sure I'll forget it. But
20 we would offer to stipulate to the Pretrial Service Report, or at
21 least that the testimony of the Pretrial Service officer would be
22 consistent with the report she prepared.

23 MS. ALLEN: We would join in that stipulation, Your
24 Honor.

25 THE COURT: All right.

1 MR. RASKIN: We'd also offer the affidavit of Agent
2 Buono in support of the Complaint. I would offer that his
3 testimony would be consistent with that affidavit on those
4 issues.

5 MS. ALLEN: No objection to that, Your Honor.

6 THE COURT: All right.

7 MR. RASKIN: And with that, I would ask the Court's
8 permission to call Agent Buono as a witness.

9 THE COURT: All right. You may do so.

10 MICHAEL P. BUONO, GOVERNMENT'S WITNESS, SWORN

11 DIRECT EXAMINATION

12 BY MR. RASKIN:

13 Q. Good afternoon, sir. Could you state your name and spell it,
14 please?

15 A. Yes. Michael, it's M-I-C-H-A-E-L. My last name is Buono.
16 B as in bravo, U-O-N-O.

17 Q. And what do you do for a living, sir?

18 A. I'm an FBI agent.

19 Q. How long have you been an FBI agent?

20 A. I've been an FBI agent since 2012.

21 Q. And where do you currently work?

22 A. I currently work at the Kansas City Division. And I work
23 counter-terrorism matters.

24 Q. How long have you worked in Kansas City on those terrorism
25 matters?

1 A. Approximately seven months in Kansas City.

2 Q. And are you part of a squad that is a member of something
3 called the Joint Terrorism Task Force?

4 A. Yes.

5 Q. Tell us what JTTF is.

6 A. Sure. JTTF is the Joint Terrorism Task Force. It's a bunch
7 of different government agencies that come together and jointly
8 work cases related to international terrorism.

9 Q. Prior to working in Kansas City did you have any other posts
10 with the FBI?

11 A. Yes. I was a special agent in Milwaukee working the same
12 matter, counter-terrorism.

13 Q. Okay. Agent Buono, are you the case agent responsible for
14 the investigation of the defendant here in the courtroom?

15 A. Yes.

16 Q. And how is it that you first became familiar with Mr.
17 Mohamud?

18 A. The FBI received a phone call from the Kansas City Police
19 Department on April 25th, where they reported that there was a
20 missing person.

21 Q. And where did the KCPD get that information from?

22 A. They received that information from Mohamud's mother, Dahabo.

23 Q. Did you ultimately learn the defendant's whereabouts at or
24 around that time?

25 A. Yes.

1 Q. Where had the defendant gone?

2 A. Through travel records we were able to identify that the
3 defendant had an airline ticket with the final destination of
4 Alexandria, Egypt.

5 Q. And did you ultimately confirm that he was on that flight and
6 went to Egypt on the 24th?

7 A. Yes.

8 Q. And the defendant is a Kansas City resident as far as you
9 know.

10 A. That is correct.

11 Q. In the course of investigating the circumstances of Mr.
12 Mohamud's departure, did the FBI have occasion to identify his
13 employer and talk to an employee at that establishment?

14 A. Yes. We were able to interview an employee at Walmart.

15 Q. And based on that interview, what did the FBI learn about the
16 circumstances of Mr. Mohamud's departure to the airport for this
17 flight to Egypt?

18 A. Sure. The defendant was scheduled to work at 1:00 p.m. to
19 either 9:00 p.m. or 10:00 p.m. shift. And he left without
20 notifying the supervisor at approximately 1:30. And that was
21 later determined by reviewing surveillance cameras at Walmart.

22 Q. Did the employee at Walmart tell your colleagues anything
23 about Mr. Mohamud's behavior in the weeks preceding his
24 departure?

25 A. Yes. Apparently, according to the employee, the defendant

1 was having difficulties attending work, leaving and coming back
2 without notifying the supervisor, not showing up. And it was
3 very odd behavior to the employee. And then also the defendant
4 stated to employee that he -- when confronted that he had to go
5 and do something that he didn't want to do.

6 Q. And, in fact, the employee indicated that the behavior was
7 such that the company was on the verge of firing Mr. Mohamud?

8 A. That is correct.

9 Q. The FBI also talked -- identified and talked to the taxi
10 driver who drove Mr. Mohamud to the airport, is that right?

11 A. Yes.

12 Q. What did you learn from the taxi driver?

13 A. According to the taxi driver, he stated that the defendant
14 said he was going to Egypt for three months and that he found it
15 unusual because the only thing he had on his possession was a
16 backpack.

17 Q. The FBI also talked to the defendant's family members,
18 correct?

19 A. Yes.

20 Q. What did the brother -- the defendant's brother and the
21 defendant's sister say about their concerns regarding the
22 defendant's whereabouts?

23 A. They were concerned that he'd traveled to Iraq to fight with
24 the fighters and to engage in terrorist activities.

25 Q. Did the brother also mention other things about the

1 defendant's behavior in recent weeks or months that he found
2 unusual?

3 A. Yes.

4 Q. The defendant locked a room, which is a garage, with a
5 padlock and kept to himself months prior and had minimal
6 communication with the family. Also the brother stated that the
7 defendant had a PlayStation 4 and a laptop which were both wiped
8 prior to his departure on April 24th.

9 Q. And when you say "wiped," what do you mean?

10 A. As far as wiped as cleared and reset to the original factory
11 settings.

12 Q. Eliminating any communications that might have previously
13 been on there?

14 A. That's correct.

15 Q. Have you had occasion to review the defendant's travel
16 records with respect to not only the flight he took to Egypt but
17 other flights that he had booked?

18 A. Yes. We were able --

19 Q. What did you learn?

20 A. Yes. We were able to identify multiple tickets. The first
21 ticket that we identified was a roundtrip to Canada in
22 approximately February 2017, which he never boarded. Followed by
23 a roundtrip ticket to Alexandria, Egypt, in early April with a
24 return flight in May, which he never boarded. And then the most
25 recent one which he did board was a roundtrip airfare from Kansas

1 City to Alexandria, Virginia, [sic] from April 24th to July 30th.

2 Q. And were there return trip tickets books from Egypt as far as
3 you know?

4 A. Yes. We identified a one-way ticket back to the United
5 States, specifically Kansas City from Egypt. And that was --
6 that reservation was made on the 26th for a -- April 26th for an
7 April 27th departure.

8 Q. And then ultimately the defendant did fly back to the United
9 States arriving on May 4, is that correct?

10 A. Well, just to backtrack, he never boarded the April 27th
11 flight. And then he did board a flight for -- on May 3rd to
12 return back to Kansas City from Egypt.

13 Q. Shifting gears slightly, in -- or you understand that the
14 defendant applied for a U.S. passport in January of 2017?

15 A. Yes.

16 Q. Around that same time did he also rent for the first time a
17 post office box?

18 A. Yes. He opened a post office box at the Antioch Post Office
19 and he used his driver's license and one other -- oh, and his
20 home address to secure the mailbox. I'm sorry.

21 Q. Now, once the defendant arrived in Egypt, is it your
22 understanding that at some point he was detained there by local
23 authorities?

24 A. Yes.

25 Q. And after that detention did the FBI have an opportunity to

1 interview the defendant in Cairo, Egypt?

2 A. Yes. The FBI was able to interview the defendant on May 1st.

3 Q. Was he provided his *Miranda* warnings and did he waive those
4 warnings?

5 A. Yes.

6 Q. The defendant during that interview discussed a note that he
7 left for his family upon departure, is that correct?

8 A. That is correct.

9 Q. What did he say in that regard?

10 A. In that note the defendant stated that he was traveling to
11 meet the strangers.

12 Q. And does that term used in that context have any meaning to
13 you based on your experience as an investigator of terrorist
14 activities?

15 A. Yes. But there are some unknowns with the term "strangers."
16 Strangers has been utilized in ISIS and other foreign terrorist
17 organizations' propaganda. And the term "strangers" refers to
18 individuals from foreign lands that are traveling to the Islamic
19 State to fight. So, that's why they're considered strangers and
20 referred to as strangers because they're not from the Islamic
21 State.

22 Q. During the course of the interview being conducted by the FBI
23 of the defendant in Cairo, did he provide consent for the FBI to
24 search various electronic devices and social media sites where
25 the defendant had been communicating?

1 A. Yes.

2 Q. And did the FBI proceed to conduct a search of some of those
3 devices and some of those accounts?

4 A. Yes, we were.

5 Q. And without getting into all the detail of that, is there a
6 principal conclusion that you and your colleagues drew from your
7 preliminary analysis of those searches?

8 A. Yes. The principal conclusion would be that most accounts
9 and devices have been, again, wiped clean. However, on one
10 social media account, which is a Facebook account, we were able
11 to review a conversation between the defendant and another
12 individual. And to go into more detail about the conversation,
13 the Facebook account that was utilized by the defendant or
14 believed to be utilized by the defendant because of an e-mail
15 account attached to it, stated that he wanted to travel to Syria
16 to join the Syrian Mujahideen and that he also wanted to be a
17 sniper.

18 Q. Okay. A couple follow-ups on that. First of all, you -- was
19 the FBI able to determine a date or a time frame for this
20 communication that they found?

21 A. That time frame was 2014.

22 Q. Is it fair to say that communicate -- that there were no
23 communications that the FBI found on any of these devices or in
24 these accounts that were after that date?

25 A. Not at this time.

1 Q. So, any indication as to whether this is -- who the
2 participants in this conversation were?

3 A. Yes.

4 Q. What could you glean from what you found?

5 A. As far as the Facebook communication, the defendant's e-mail
6 account was linked to a Facebook ID by the name of Jason Mason.
7 And Jason Mason was in communication with another individual
8 where Jason Mason shared his comments about the Syrian Mujahideen
9 and wanting to be a sniper.

10 Q. Is it your belief based on your review of what the defendant
11 said in this interview in Cairo and your training and experience
12 that Jason Mason was an alias and that the defendant himself was
13 the one communicating over the account that he gave you?

14 A. Yes.

15 Q. And again, was it clear that the statement you referred to,
16 namely, "I am moving to Syria to join the Syrian Mujahideen," was
17 that clear that this was a statement made by the person using the
18 alias Jason Mason?

19 A. Yes.

20 MR. RASKIN: Moving on, and I'm almost done, Your Honor.

21 THE COURT: Thank you.

22 BY MR. RASKIN:

23 Q. It's your understanding, and I think you testified before
24 that the defendant took a flight from Egypt back to the United
25 States arriving on May 4th?

1 A. Yes.

2 Q. And the FBI was aware that he was returning?

3 A. That's correct.

4 Q. FBI agents meet the defendant at the airport in New York?

5 A. Yes.

6 Q. Did they conduct another interview of him in New York?

7 A. Yes.

8 Q. Regarding his reasons for traveling overseas, did the
9 statements that the defendant made in this second interview match
10 up or jibe with the statements he had previously made about the
11 strangers?

12 A. Yes. The interview in New York was consistent with the
13 statements he provided about wanting to join the strangers as he
14 provided in Cairo, Egypt.

15 Q. Was he also asked about the former Al-Qaeda member, Anwar al-
16 Awlaki?

17 A. Yes.

18 Q. Why was he asked about that person?

19 A. Because on Jason Mason's Facebook page he was liked and
20 that's why the FBI asked him questions about al-Awlaki.

21 Q. The person using that account had indicated that he liked the
22 account of Anwar al-Awlaki?

23 A. Yes.

24 Q. And what then did the defendant say about this person?

25 A. He was supportive of Anwar al-Awlaki's message and was also

1 supportive because of his children being killed and also the
2 struggle that sheiks don't recognize him as a sheik.

3 Q. Okay. Last question, Agent Buono. Based on your experience
4 with the JTTF and the factors that you have set forth in your
5 testimony here today, what's going on here? What is the FBI's
6 current belief as to what the defendant was doing traveling to
7 Egypt?

8 A. I'm sorry to say we don't quite know at this time. We are in
9 the process of investigating and trying to figure this out.
10 However, there are several behavioral indicators that the
11 defendant has shown that is consistent with an individual who
12 would want to commit a violent act related to terrorism.

13 MR. RASKIN: No further questions, Your Honor.

14 THE COURT: Ms. Allen.

15 MS. ALLEN: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. ALLEN:

18 Q. Agent, you stated that Mr. Mohamud was found in Egypt in late
19 April, correct?

20 A. Sometime after April 25th.

21 Q. And it's your understanding that he traveled by April 24th,
22 correct?

23 A. Yes.

24 Q. And you just testified that he booked a flight out of Egypt
25 -- the flight was booked for the 27th, but was booked on April

1 26th, correct?

2 A. That's correct.

3 Q. So, from what you've looked at he traveled to Egypt on April
4 24th and two days later booked a flight home, correct?

5 A. Yes.

6 Q. Now, you stated he did not return home until, what was it
7 May, was it 3rd or 4th?

8 A. He arrived last night in Kansas City.

9 Q. Why was he held up and why didn't he leave on the 27th?

10 A. I don't know.

11 Q. Okay. At some point was he detained in Egypt?

12 A. Yes. He was detained. But how that was I have no idea and
13 the situation surrounding it I do not know.

14 Q. And I guess what I want to try to clarify, and if you don't
15 know, you don't know, was did he not get on that flight on April
16 27th because he was detained in Egypt?

17 A. We do not know.

18 Q. Okay. But you do know that he had booked a flight to leave
19 three days after he arrived?

20 A. Yes.

21 Q. Okay. And that's not consistent with the statements that you
22 were talking about of staying three months, correct?

23 A. No, but it is consistent with statements surrounding the
24 concern for us where one of the behavioral indicators is that a
25 -- someone who would want to go overseas and commit an attack

1 schedules different flights to disguise their true intentions and
2 where they ultimately want to travel to.

3 Q. Let's be clear about what you know here. He has never stated
4 to anyone that he planned to commit an attack, correct?

5 A. That's correct.

6 Q. You've not found anything on social media or on computers
7 that he made any statements about planning -- commit any sort of
8 attack, correct?

9 A. Through the state, that's correct.

10 Q. Okay. And from what you see he was voluntarily returning to
11 the United States on the 27th?

12 A. Yes.

13 Q. Okay. Now, I want to discuss how this entire incident came
14 to light. His family was actually the one who contacted the
15 police and reported their concerns, correct?

16 A. They reported him as a missing person to the Kansas City
17 Police Department.

18 Q. And you've just testified that they actually when interviewed
19 had talked about having concerns about him traveling to fight in
20 Iraq, correct?

21 A. Yes.

22 Q. So, in short, his family has been open with the authorities
23 about their concerns?

24 A. That is not entirely true.

25 Q. Okay. Well, the family has expressed something, some

1 information to the authorities about concerns, correct?

2 A. Some, but not all.

3 Q. Now, at this point do you know if Mr. Mohamud still has a
4 passport?

5 A. He does.

6 Q. He does still have a passport?

7 A. Yes. But it's in our possession at this time.

8 Q. Okay. So, it exists, but he doesn't physically have the
9 passport?

10 A. That's correct.

11 Q. And would that passport be returned to him if he were
12 released?

13 MR. RASKIN: Objection. That would be part of the
14 Court's bail package, I would assume. But I'm not sure this
15 witness knows the answer to that.

16 THE COURT: Well, I guess what she's asking is would
17 they plan to return it to him.

18 MS. ALLEN: And I --

19 THE COURT: And I understand what you're saying. The
20 Court can always direct that somebody's passport be taken to
21 Pretrial. But right now the FBI has the passport. So, objection
22 overruled.

23 THE WITNESS: I have not thought of that at this time
24 and I do not know the answer to that.

25 BY MS. ALLEN:

1 Q. Now, you stated that you looked at Mr. Mohamud's travel plans
2 and there were flights that were booked that he never took,
3 correct?

4 A. Yes.

5 Q. Obviously, he traveled here from Somalia when he was a child.
6 But other than that did you show any recent international travel
7 when you looked at his recent travel?

8 A. No. Nothing other than the ones we discussed.

9 Q. So, really this flight to Egypt is the only time that he's
10 left the United States in recent years that you're aware of?

11 A. Yes.

12 Q. All right. I have no further questions for you. Thank you.

13 MR. RASKIN: Briefly, Your Honor?

14 THE COURT: Yes.

15 REDIRECT EXAMINATION

16 BY MR. RASKIN:

17 Q. Agent, you were asked on cross-examination questions about
18 whether -- questions about the shortness of or the potential
19 shortness of the defendant's stay in Egypt considering that he
20 booked a flight to come home on the 26th of April. Do you
21 remember those questions?

22 A. Yes.

23 Q. Have you -- are you able to draw any investigative
24 conclusions based on your interviews here in Kansas City with the
25 family members about why the defendant booked a flight home on

1 the 26th?

2 A. On one of the e-mail accounts that we reviewed, the family
3 attempted to reach out to Mohamud. I don't know if they actually
4 reached out to him. But they told him that the FBI was looking
5 for him, that he was under investigation, you need to come home
6 immediately.

7 Q. And that's because you or your colleagues had talked to the
8 family members before the 26th, correct?

9 A. Yes.

10 Q. You were also asked about whether the FBI had found any
11 statements from the defendant about an attack or carrying out an
12 attack. Do you remember those questions?

13 A. Yes.

14 Q. And specifically you were asked whether you had found any of
15 those types of statements on social media, is that correct?

16 A. That's correct.

17 Q. Again, what would -- did the FBI reach a preliminary
18 conclusion about the social media accounts they looked at and the
19 content that they were finding there?

20 A. Again, this is a struggle for us because most of the social
21 media and e-mail accounts have been deleted. However, the most
22 recent one in 2014 where he did share a concern with joining the
23 Syrian Mujahideen and wanting to be a sniper is a concern.

24 Q. Right. And you were also asked about the openness of the
25 family's communications with the FBI. Did you learn during the

1 course of the investigation from the brother and others that the
2 defendant had been acting secretly in the months before his
3 departure?

4 A. Yes.

5 Q. And is it your belief that he was actually hiding his
6 activities from his family members?

7 A. Yes.

8 Q. So, in your investigative opinion, were the family members in
9 a position to provide as much evidence for you as you would have
10 hoped?

11 A. Yes. In regards to what they could have possibly known, yes.

12 MR. RASKIN: Nothing further, Your Honor.

13 THE COURT: Anything further?

14 MS. ALLEN: I just have one clarifying question.

15 RECROSS EXAMINATION

16 BY MS. ALLEN:

17 Q. So, it's your understanding that Mr. Mohamud's family
18 contacted him and told him that the FBI wanted to talk to him or
19 was looking for him?

20 A. Yes.

21 Q. And it was after he learned that the FBI was looking for him
22 that he booked a flight back to the United States?

23 A. I would have to refer to the e-mail communication for the
24 exact date on that. I would hate to misrepresent that right now
25 because it is date specific and it's a small time frame.

1 Q. But you agree that it's possible that that time frame would
2 match up? That they informed him the FBI is looking for him and
3 then he books a flight to the United States?

4 A. Yes. Yes.

5 Q. Okay.

6 A. That's why it's a concern.

7 Q. I have no further questions.

8 A. Thank you.

9 MR. RASKIN: Nothing further, Your Honor.

10 EXAMINATION BY THE COURT:

11 Q. Okay. I just have a couple of questions. I want to make
12 sure I understand. So, he left here on April 24th and arrived in
13 Egypt on the 25th?

14 A. That's correct.

15 Q. And do you know where he traveled in Egypt?

16 A. According to the travel records he landed in Alexandria,
17 Egypt.

18 Q. All right. Did he make it out of the airport? Did he travel
19 anywhere in Egypt?

20 A. Yes.

21 Q. And do you know how he came then back into custody of anyone?

22 A. I don't know the details of what happened. But information
23 was shared with us that he was located in Damietta. I think I'm
24 pronouncing that correctly. It's D-A-M-I-E-T-T-A.

25 Q. And he was interviewed by the FBI in Cairo?

1 A. That's correct.

2 Q. And do you know how he got to Cairo to the FBI? Did he
3 voluntarily go to their offices to be interviewed or do you know
4 how that transpired?

5 A. I believe the FBI interviewed him at some location. I don't
6 know the details to how that happened.

7 Q. And then he got on a flight to the United States when?

8 A. On May 3rd.

9 Q. And he arrived in New York on May 4th?

10 A. I'm sorry. He might have departed May 4th and arrived May 4th
11 with the time difference.

12 Q. Okay. That would probably be right.

13 A. Yeah.

14 Q. Yeah. Okay.

15 A. Yeah.

16 Q. But he arrived in New York on May 4th?

17 A. Yes.

18 Q. Okay. And he arrived in Kansas City last night?

19 A. Yes.

20 Q. And so he was interviewed in New York?

21 A. Yes.

22 Q. And then when was his passport taken from him? Was he
23 allowed to use it to travel to Kansas City?

24 A. Yes. His travel was voluntary. He was interviewed by the
25 FBI in LaGuardia. He originally landed at JFK. And then they

1 interviewed him in LaGuardia. And then the FBI agents
2 accompanied him on the Kansas City flight. And then when he
3 deplaned, that is when multiple FBI agents were there to detain
4 him. And at that time is when his passport was taken.

5 Q. All right. And so did the FBI transport him from JFK to
6 LaGuardia for the interview?

7 A. I don't know that.

8 THE COURT: Okay. Any follow-up anyone wants to do?

9 MR. RASKIN: No, Your Honor.

10 MS. ALLEN: No, Your Honor.

11 BY THE COURT:

12 Q. So, did he voluntarily return to Kansas City or did he come
13 to Kansas City because the FBI suggested that? I mean, we're
14 talking about the flight risk issue here. I'm just trying to
15 figure out what the agents' role in getting him back to Kansas
16 City was.

17 A. Yeah. I'm not sure what the exact roles were. But I believe
18 the defendant purchased his own airplane ticket and was not in
19 detention at any time from when he departed Cairo to when he
20 landed in Kansas City. And he was never in FBI's detention, you
21 know, prior to that.

22 Q. Were there agents on the flight with him from Cairo to New
23 York?

24 A. No.

25 THE COURT: Okay. Any follow-up anyone wants to do?

1 MS. ALLEN: No, Your Honor.

2 MR. RASKIN: No, Your Honor.

3 THE COURT: Okay. Thank you very much.

4 THE WITNESS: Sure.

5 THE COURT: All right. Any argument that anyone wants
6 to make?

7 MR. RASKIN: Yes, Your Honor. And I'll keep it as brief
8 as possible given the hour. We feel that there is a risk of
9 flight here that merits detention based on the highly suspicious
10 and unusual circumstances of the defendant's departure from the
11 United States to Egypt within the last several weeks. That
12 combined with the circumstances Agent Buono talked about about
13 unusual behavior at work, unusual behavior at home, secrecy over
14 his conduct, wiping his social media accounts and various other
15 activities, when you combine that with an expressed desire to go
16 fight Jihad overseas going back to 2014, it is a fair inference
17 to draw that this is the defendant's intention. And he has acted
18 on it once. And if given the ability to do it once again, that
19 that is exactly what he will do. And the facts, as elicited from
20 Agent Buono, I think speak loud and clear to his intention to do
21 so. I would not suggest that that risk can be mitigated by
22 holding the defendant's passport given the fact that the FBI
23 believes that communications that have been deleted have been
24 with persons overseas who would be able to facilitate the
25 defendant's travel and in doing so, would be able to help him

1 secure travel documents to get out of the country. These are the
2 types of questions that the FBI is continuing to investigate.
3 And, indeed, this is the reason that the Government asked for
4 more time here. Lastly, I appreciate Your Honor's questions
5 about the defendant's travel back to the United States. And I
6 know that Agent Buono was correct when he said that the defendant
7 was not in custody. I think under the circumstances, given what
8 we believe the defendant knew from his family, that he was
9 clearly aware that the FBI was not only investigating him, but
10 monitoring his travel from Egypt. That is certainly not the time
11 that the defendant would take flight. We believe that that is
12 something that would occur once he's released and feels that the
13 FBI is no longer looking at him. With that said, we believe that
14 there is a strong case for risk of flight here and move to detain
15 on that ground.

16 THE COURT: And I just want to make sure that I
17 understand your position because you've just indicated that there
18 were some factors that you wanted to continue to investigate, but
19 by going forward today you didn't have that opportunity. So, are
20 you asking for an opportunity to present further evidence on
21 Monday or Tuesday of this coming week?

22 MR. RASKIN: Yes.

23 THE COURT: All right. Ms. Allen.

24 MS. ALLEN: Your Honor, I also will try to keep this
25 brief. I think we've had quite a bit of testimony. I think

1 there's clearly conditions that can be put in place to ensure the
2 safety of the community and ensure Mr. Mohamud's appearance. As
3 far as the safety of the community, I think the Government has
4 presented quite a bit of very speculative information about what
5 he was or wasn't doing. But the bottom line is he is a 21-year-
6 old with no criminal history. I also think it's important that
7 the Court take into account the nature of these charges, which is
8 that he put that he was traveling possibly to Canada on a
9 passport application and did not travel to Canada. That in and
10 of itself is not violent or dangerous and they have not charged
11 with him anything regarding terrorism, regarding any sort of
12 violent or dangerous activity. And so I think that's of great
13 significance. If they did charge him with that, or they do
14 charge him with that, certainly that's something the Court could
15 take into account in the future. But that's not what he's facing
16 today. I think -- it seems to be that the overriding concern is
17 ensuring his appearance because of this overseas travel. He
18 would be willing to forfeit his passport. I've spoken to him
19 about that. He would be willing to put up any money that he had
20 in his bank account for bond. I also think there's factors about
21 this case that say that he would be -- his appearance would be
22 assured. He's a 21-year-old who lives at home with his family.
23 And obviously you can see that much of his family is here. His
24 family, they're the ones who called the police after he was
25 missing for just one day and reported what their concerns were.

1 So, I think the Court should have assurance that if staying with
2 his family, his family is -- they are going to make sure that he
3 appears and they're going to look after him because they've
4 already done that. Secondly, any speculation that there are
5 individuals overseas that can somehow facilitate his travel
6 without a passport, we didn't hear any testimony about that.
7 There was no evidence that somehow he can have some mysterious
8 person facilitate overseas travel. That just simply wasn't
9 information that was presented today. And then I think it's of
10 great significance. But he was in Egypt for what it sounds like
11 was one day before he booked a flight home. And it appears that
12 he booked that flight home because he knew the FBI was looking
13 for him. I actually think this is sort of contrary to the way
14 the Government sees it that this is some indication that he's
15 going to run. If he knows that the FBI is looking for him and he
16 voluntarily returns to the United States, I don't know why we
17 would have a great concern that when he is being monitored by the
18 United States courts that that's the time that he is going to
19 then run back overseas without a passport and potentially without
20 money and with his family watching him. I think there's
21 absolutely conditions that can be put in place to ensure his
22 appearance and we would ask for bond in this case. Thank you,
23 Your Honor.

24 THE COURT: All right. Let me take a few minutes to
25 talk to Pretrial, and then I know we're kind of late in the day,

1 but we'll figure out what we're doing. If the Court does allow
2 you to put on additional evidence on Monday or Tuesday of next
3 week, when do you want to do that, Mr. Raskin?

4 MR. RASKIN: The longer the better. So, Tuesday --

5 THE COURT: All right.

6 MR. RASKIN: -- anytime in the day.

7 THE COURT: The first I'd be available Tuesday would be
8 at 2:30. Are you available then, Ms. Allen?

9 MS. ALLEN: Just one moment. Let me grab my calendar.

10 THE COURT: All right.

11 MS. ALLEN: I believe I am, but I just want to check.
12 That would be the 9th?

13 THE COURT: That would be the 9th.

14 MS. ALLEN: I actually have a new case in front of Judge
15 Maughmer at 2:30, but that is my only obligation that day.

16 THE COURT: Is that a detention hearing or --

17 MS. ALLEN: It's a detention, arraignment, new case.

18 THE COURT: How long do you think you'll need, Mr.
19 Raskin?

20 MR. RASKIN: Well, I hate to give this answer, but it
21 depends. You know, I mean, the team is working. We'll be
22 working through the weekend and see what we get. Look, I can't
23 imagine it's going to be a long time.

24 THE COURT: All right.

25 MR. RASKIN: Fifteen minutes.

1 THE COURT: So, I have something starting at 2:00.
2 Would you be available at one? Do you think between 1:00 and
3 2:00 is enough time?

4 MS. ALLEN: I'm available at 1:00.

5 MR. RASKIN: Yes, that's fine.

6 THE COURT: All right. Well, then I will at some point
7 talk to Pretrial. But what I'm going to do this afternoon is
8 take it under advisement, in large part because, you know, your
9 argument, Ms. Allen, is that there is certain evidence you
10 haven't heard such as evidence that he'd be able to get travel
11 documents and, therefore, would be a flight risk even if the
12 Court were to hold onto his passport. And obviously, you know,
13 one of the arguments Mr. Raskin has been making is that by
14 requiring him to present his evidence here today, he didn't have
15 it all. So, to the extent there is additional evidence that Mr.
16 Raskin wants an opportunity to present on the issue of flight
17 risk, which is what his motion addresses and what we're concerned
18 about, I'm going to allow him until Tuesday. And just because of
19 my schedule then, we'll set it for one o'clock if the parties
20 available. That means I'm taking it under advisement and
21 defendant will remain in custody pending further proceedings next
22 week. Obviously, the issue of probable cause is one that Judge
23 Maughmer will need to hear and I'll have him set that preliminary
24 hearing at a different time. But because I've started down the
25 road for detention issues, then rather than getting a transcript

1 and turning it over to Judge Maughmer on Tuesday, I'll just
2 conclude the hearing at that time. All right. Is there anything
3 else that we need to address?

4 MS. ALLEN: No, Your Honor.

5 MR. RASKIN: No, Your Honor.

6 THE COURT: All right. Pending further proceedings on
7 Tuesday at 1:00, defendant is remanded to the custody of the
8 Marshals.

9 (Court Adjourned at 4:35 p.m.)
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INDEXWITNESSES FOR
THE PLAINTIFF:DIRECTCROSSREDIRECTRECROSS

Michael P. Buono

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6 I certify that the foregoing is a correct transcript
7 from the electronic sound recording of the proceeding in the
8 above-entitled matter.

9
10 /s/ Lissa C. Whittaker
Signature of transcriber

May 8, 2017
Date